

Appl. No. 09/611,447
Amdt. dated October 5, 2004
Reply to Office action of August 5, 2004

Remarks:

Claims 1-10, 16, 18, 19, 20, 22 and 23 are pending in this application.

Claims 11-15, 17 and 21 have been cancelled, without prejudice, by way of this amendment.

The Applicant gratefully acknowledges the indication by the Examiner that claims 3-5, 9, 10, 18, 19, 22 and 23 are allowable. Claim 3 has been amended to incorporate the limitations of the claims (claim 1 and claim 2) from which claim 3 originally depended.

The Examiner has rejected claims 6-8 under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,577,418 to Boivie (hereinafter Boivie). The Applicant respectfully disagrees.

To anticipate claim 6, Boivie must disclose each element of claim 6.

For instance, to anticipate claim 6, as amended, Boivie must disclose "encoding a representation of traffic characteristics of an interface between one of said optical label switching routers in said first data communication network and a node in a second network".

The Examiner appears to equate the Optical IP Switches (OIPs) of Boivie to the claimed optical label switching routers. The Examiner has further cited col. 4, lines 66-67 and col. 5, lines 1-3 to illustrate that a given Optical IP Switch implements a Label Distribution protocol and is linked to a node. Be that as it may, it is submitted that the interfaces whose traffic characteristics are encoded by an OIP are strictly between OIPs *in the same network* and not, as claimed in claim 6, "between one of said optical label switching routers in said first data communication network and a node in a second network". It is submitted that the nodes referred to in the passage cited by the Examiner are nodes (OIPs) that are formed by a switch and a router/switch controller (see col. 4, lines 9-11). As such, there can be no anticipation of claim 6 by Boivie.

In view of the forgoing, applicant submits that claim 6, as amended, is not anticipated by Boivie and respectfully requests that the Examiner's rejection on that basis be

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withdrawn. Furthermore, it is submitted that claims 7 and 8, which depend from claim 6, are not anticipated by Boivie and are, therefore, patentable.

The Examiner has rejected claims 1, 2, 11-13, 16, 17, 20 and 21 under 35 U.S.C. 103(a) as being unpatentable over Boivie in view of Jamoussi. The applicant respectfully disagrees.

In order to establish that any claim is obvious, the Examiner must identify 1) all of the claimed elements in the prior art; 2) a reason or motivation to modify or combine these elements to arrive at the claimed invention; and 3) a reasonably likelihood of success. (See M.P.E.P. 2142)

In rejecting claim 1, the Examiner has admitted that Boivie does not disclose an optical label including an indication of currently available bandwidth on each of a plurality of channels. The Examiner then cites Jamoussi to provide such an optical label. However, as amended, claim 1 requires an optical label to include "an indication of whether each channel of said plurality of channels is available for use in a label switched path". It is submitted that the Traffic Parameter TLV of Jamoussi includes static aspects of a label switched path. The static aspects include Peak Data Rate (in bytes per second), Peak Burst Size (in bytes), Committed Data Rate (in bytes per second), Committed Burst Size (in bytes) and Excess Burst Size (in bytes).

It is further submitted that "whether each channel of said plurality of channels is available for use in a label switched path" is a dynamic aspect of a channel, independent of the static aspects of the same channel. This dynamic aspect provides an advantage in that a node reading the optical label may determine whether the channel is available for the provision of a label switched path.

As such, it is submitted that all the elements claimed in claim 1 are not found in Boivie or Jamoussi, or a combination of Boivie and Jamoussi. It is therefore submitted that claim 1 is patentable over the combination of Boivie and Jamoussi. Furthermore, it is submitted that claim 2, which depends from claim 1, is patentable over the combination of Boivie and Jamoussi.

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It is further submitted, for the reasons stated hereinbefore in the discussion of claim 1, that claim 16, which claims an optical label switching router operable to perform the method of claim 1, and claim 20, which claims a computer readable medium adapting an optical label switching router to perform the method of claim 1, are also patentable over the combination of Boivie and Jamoussi.

No new matter has been added by way of these amendments.

Applicant respectfully requests that a timely Notice of Allowance be issued in the case.

Respectfully submitted,



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